

DATE: January 18, 2002

FILE REF: AMES AMGE

TO: Caroline Garber – AM/7

FROM: Jeff Myers – AM/7

SUBJECT: Small Emitters: Language Suggestion for Locations of Concern

I have developed the following proposed language to describe the types of locations that might be of concern for exposures that are very close to property lines:

◆ **Emission source is less than 100 feet from a property line of a residence, school, day care center , or health care facility.**

I have looked at statutes and code language for equivalent terms and here are my suggestions for what is meant by the terms: residence, school, day care center and health care facility. Attached to the end of this document are the citations I found that might be of interest.

TERM	SUGGESTED LANGUAGE	CITATION AND COMMENTS
Residence	"Residence" means a structure which is used wholly or in part as a human residence, including all of the following: 1. A residential structure occupied on a rental basis. 2. A mobile home and the site on which it is located. 3. A hotel, motel or similar premises occupied on a transient basis. 4. A hospital, nursing home, or similar facility occupied by persons receiving medical care or related services.	ATCP 30.22 (1) DEFINITIONS. (e). This defn. also incorporates health care facility, although there are some other definitions for health care facility in stats. & regs.
School	"School" means a public or private educational facility in which a program of educational instruction is provided to children or adults in any grade or grades from pre-school through the university level	NR 204.03(52). This definition covers public, private, preschool through university as well as technical, vocational, etc. Other defns. more "clumsy"
Day Care Center	"Day care center" means a facility where a person other than a relative or guardian provides care and supervision to adults or children on a nonresidential basis.	HFS 122.03(12). This definition covers both children and adult day care centers

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TERM	SUGGESTED LANGUAGE	CITATION AND COMMENTS
Health Care Facility	<p>Not needed if the definition of residential structure is adequate.</p> <p>Alternate defn.:</p> <p>"Health care and related facility" means a hospital, nursing home, community-based residential facility, county home, infirmary, inpatient mental health center, inpatient hospice, ambulatory surgery center, adult daycare center, end stage renal facility, facility for the developmentally disabled, institute for mental disease, urgent care center, clinic or medical office, child caring institution, or school of medicine, surgery or dentistry.</p>	<p>Alternate citation is: Comm 81.01(116)</p>

(Note: Citations without letters in front of them are from state statutes, those with letters are from administrative codes. Citations with shading are ones that seemed to be a better fit than some of the others)

Residence and Dwelling Definitions/Citations

ATCP 30.22 Metam sodium pesticides; use restrictions.

(1) DEFINITIONS.

(e) "Residential structure" means a structure which is used wholly or in part as a human residence, and includes all lawns, grounds, facilities, and furnishings pertaining to that structure. "Residential structure" includes all of the following:

1. A residential structure occupied on a rental basis.
2. A mobile home and the site on which it is located.
3. A hotel, motel or similar premises occupied on a transient basis.
4. A hospital, nursing home, or similar facility occupied by persons receiving medical care or related services.

101.61(1)

(1) "Dwelling" means any building that contains one or 2 dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

16.352(1)(d)

(d) "Shelter facility" means a temporary place of lodging for homeless individuals or families

ATCP 29.55(1)(e) (e) "Residential structure" means a structure used wholly or in part as a human residence, and includes all facilities and furnishings pertaining to that structure. Residential structure includes a residential structure occupied on a rental basis, and also includes a mobile home. Residential structure does not include any of the following:

ATCP 30.22(1)(e)

(e) "Residential structure" means a structure which is used wholly or in part as a human residence, and includes all lawns, grounds, facilities, and furnishings pertaining to that structure. "Residential structure" includes all of the following:

BC 3.01(11)

(gm) "Retirement home" means a residential facility where 3 or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

School

NR 204.03(52)

(52) "School" means a public or private educational facility in which a program of educational instruction is provided to children or adults in any grade or grades from pre-school through the university level

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NR 812.07(94)

(94) "School" means a public or private educational facility in which a program of educational instruction is provided to children in any grade or grades from kindergarten through the 12th grade. Water systems serving athletic fields, school forests, environmental centers, home-based schools, day-care centers and Sunday schools are not school water systems.

PI 5.02(2)

(2) "College" or "university" means an institution which is accredited on a degree granting level by an accrediting agency which is listed by the United States department of education as a nationally recognized accrediting agency.

EAB 1.01(23)

(23) School. "School" means any person who maintains, advertises or conducts in Wisconsin any postsecondary program not excepted under s. [45.54 \(1\) \(e\)](#), Stats.

PI 22.02(3)

(3) "Postsecondary educational institutions" means the university of Wisconsin system campuses, private four-year colleges and universities in Wisconsin, and Wisconsin technical college institutions.

38.01(1)

(1) "Associate degree program" means a 2-year, post-high school program in an area designated and approved by the board for which the course requirements are established by the board.

DOC 328.045(3)(a)2.

2. Is a student enrolled in a full-time course of instruction. For the purpose of this subdivision, a "full-time course of instruction" means enrolled in an accredited course of instruction and registered for more than 9 credits in post secondary education or full-time high school or full-time junior high school. For the purpose of this subdivision, "school" means a public school under s. [115.01 \(1\)](#), Stats., a charter school as defined in s. [115.001 \(1\)](#), Stats., or a private school as defined in s. [115.001 \(3r\)](#), Stats. The offender shall provide a release of information to verify enrollment and registration of credits. If the offender fails to provide the release of information, no exemption may [be] given. The educational institution shall certify to the department that the offender is enrolled and attending a full-time course work at the educational institution.

HFS 46.03(22)

(22) "Parochial or private school" means an educational program which meets all the criteria specified under s. [118.65 \(1\)](#), Stats., or as determined by the superintendent of public instruction under s. [118.167](#), Stats

115.01(1)

(1) **Public schools.** Public schools are the elementary and high schools supported by public taxation.

Health Care Facility

Comm 81.01(116)

"Health care and related facility" means a hospital, nursing home, community-based residential facility, county home, infirmary, inpatient mental health center, inpatient hospice, ambulatory surgery center, adult daycare center, end stage renal facility, facility for the developmentally disabled, institute for mental disease,

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urgent care center, clinic or medical office, child caring institution, or school of medicine, surgery or dentistry.

Comm 51.01(68a)

(68a) "Health care facility" means both hospital or nursing home.

Phar 7.04(1)(b)

(b) "Inpatient health care facility" means any hospital, nursing home, county home, county mental hospital, tuberculosis sanitarium or similar facility, but does not include community-based residential facilities, jails or prison facilities.

DWD 100.02(31)

"Health care facility" means any nursing home, community-based residential facility, hospital, clinic, office of a physician or other health care professional, mental health institute, center for the developmentally disabled, alcohol or drug treatment center or other facility providing inpatient or outpatient health care to patients, whether licensed, approved or exempted under state law or certified under federal law.

50.01(1)

(1) "Adult family home" means one of the following:

50.01(1)(a) (a) A private residence to which all of the following apply:

50.01(1)(a)1.

1. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined ins. 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings, or, if the residence is licensed as a treatment foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4.

50.01(1)(a)2.

2. The private residence was licensed under s. 48.62 as a foster home or treatment foster home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.

50.01(1)(b)

(b) A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident. "Adult family home" does not include a place that is specified in sub. (1g) (a) to (d), (f) or (g).

50.01(1d)

(1d) "Residential care apartment complex" means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services. "Residential care apartment complex" does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential

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facility. In this subsection, "stove" means a cooking appliance that is a microwave oven of at least 1,000 watts or that consists of burners and an oven.

50.01(1g)

(1g) "Community-based residential facility" means a place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. "Community-based residential facility" does not include any of the following:

50.01(3)

(3) "Nursing home" means a place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services. "Nursing home" does not include any of the following:

50.01(3)(c)

(c) A convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual.

50.01(3)(d)

(d) A hospice, as defined ins. [50.90 \(1\)](#), that directly provides inpatient care.

50.01(3)(e)

(e) A residential care apartment complex.

HFS 89.13(2)

(2) "Residential care apartment complex services" means services provided by a residential care apartment complex, either directly or under contract, to meet needs identified in a tenant's service agreement, to meet unscheduled care needs or to provide emergency services 24 hours a day.

456.01(2)

(2) "Nursing home" has the meaning provided ins. [50.01 \(3\)](#), plus includes all public medical institutions under [ss. 49.70](#), [49.71](#) and [49.72](#).

Day Care Center

HFS 122.03(12)

"Day care center" means a facility where a person other than a relative or guardian provides care and supervision to adults or children on a nonresidential basis.

HFS 45.02(4)

"Family day care center" or "center" means a place where a person, other than a parent, relative or guardian, provides care and supervision for 4 to 8 children under 7 years of age for less than 24 hours a day and for compensation.

HFS 46.03(13)

"Group day care center" or "center" means a facility where a person other than a relative or guardian provides

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care and supervision for 9 or more children for less than 24 hours a day for compensation.

HFS 55.04(10)

"Day care center" or "center" means a licensed facility where a person, other than relative or guardian, provides care and supervision for 4 or more children under 7 years of age, for less than 24 hours a day and for compensation.

HFS 55.04(12)

"Family day care center" means a center regulated under [ch. HFS 45](#) that provides care and supervision for 4 to 8 children.

HFS 55.04(15)

"Group day care center" means a center regulated under [ch. HFS 46](#) that provides care and supervision for 9 or more children.

DWD 58.02(4)

(4) "Day care center" means a facility operated by a child care provider licensed under s. [48.65](#), Stats., or established or contracted for under s. [120.13 \(14\)](#), Stats., that provides care and supervision for 4 or more children under 7 years of age for less than 24 hours a day.

DWD 58.02(7)

(7) "Family day care center" means a day care center that provides care and supervision for 4 to 8 children.

DWD 58.02(8)

(8) "Group day care center" means a day care center that provides care and supervision for 9 or more children

Language of A Similar Intent (A Little More Broad Coverage that I Think We Intend) can be found In the Agriculture Administrative Code Language:

ATCP 29.52(1)(a)

(a) A responsible person under [par. \(b\)](#) shall post warning signs at a site where a dual notice agricultural pesticide is applied for agricultural purposes if that site is located within 300 feet of a [residence, migrant labor camp, school, playground, day care facility, health care facility](#), commercial or industrial facility, public recreation area, or other nonagricultural area except a public road, where individuals are likely to be present during the restricted entry interval specified on the pesticide label. The warning signs shall comply with [sub. \(8\)](#).

ATCP 29.52(8)(e)2.

2. At 1/4 mile intervals along those borders of an outdoor application site that lie within 300 feet of a [residence, migrant labor camp, school, playground, day care facility, health care facility](#), commercial or industrial facility, public recreation area, or other nonagricultural area except a public road, where individuals are likely to be present during the restricted entry interval specified on the pesticide label. An application site bordering an area identified under this subdivision for less than 1/2 mile shall be posted with at least one sign.